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**PROVIDING FOR CONSIDERATION OF H. RES. 627, DEPLORING ABUSE OF PERSONS
IN UNITED STATES CUSTODY IN IRAQ**

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

May 6, 2004

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Mr. Speaker, this resolution will be minimally useful at best.

I intend to vote for it. But it falls far short of what this House ought to be doing today.

Lou Dobbs two days ago on CNN I think said it best when he said that the reason the Commander in Chief needed to make a public apology for what happened in the prisons in Iraq was not just because that conduct was offensive to the Arab world but because it was offensive to basic American values. And I think Mr. Dobbs had it dead right.

Later on in that same program, Anthony Cordesman, a well-known defense expert, made the observation that the worst thing about this from the standpoint of American troops is that because the pictures associated with these violations of human rights will have inflamed the Arab world, that unfortunately it is likely that additional Americans will die because of that. And unfortunately, he also had it dead on.

This resolution needs to be amended, and there will be an effort to do that, to amend it to affirm that we need a bipartisan congressional investigation to conduct an investigation into these allegations of abuse, including those by U.S. civilian contractors and other civilians, and

an investigation into the chain of command and other systemic deficiencies including the command atmosphere that may have contributed to such abuse. That is the minimum that is necessary.

Now, months ago I called for the resignation of the Secretary of Defense because I think the conduct of the civilian leadership of the Defense Department in conducting the affairs in Iraq after the war was spectacularly incompetent. So I do not need to go into that today.

Mr. Speaker, the following is an article from a Washington Post editorial on Mr. Rumsfeld's performance on this issue:

[From the Washington Post, May 6, 2004]

Mr. Rumsfeld's Responsibility

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The Horrific abuses by American interrogators and guards at the Abu Ghraib prison and at

other facilities maintained by the U.S. military in Iraq and Afghanistan can be traced, in part, to policy decisions and public statements of Secretary of Defense Donald H. Rumsfeld. Beginning more than two years ago, Mr. Rumsfeld decided to overturn decades of previous practice by the U.S. military in its handling of detainees in foreign countries. His Pentagon ruled that the United States would no longer be bound by the Geneva Conventions; that Army regulations on the interrogation of prisoners would not be observed; and that many detainees would be held incommunicado and without any independent mechanism of review. Abuses will take place in any prison system. But Mr. Rumsfeld's decisions helped create a lawless regime in which prisoners in both Iraq and Afghanistan have been humiliated, beaten, tortured and murdered--and in which until recently, no one has been held accountable.

The lawlessness began in January 2002 when Mr. Rumsfeld publicly declared that hundreds of people detained by U.S. and allied forces in Afghanistan "do not have any rights" under the Geneva Conventions. That was not the case: At a minimum, all those arrested in the war zone were entitled under the conventions to a formal hearing to determine whether they were prisoners of war or unlawful combatants. No such hearings were held, but then Mr. Rumsfeld made clear that U.S. observance of the convention was now optional. Prisoners, he said, would be treated "for the most part;" in "a manner that is reasonably consistent" with the conventions--which the secretary breezily suggested, was outdated.

In one important respect, Mr. Rumsfeld was correct: Not only could captured al Qaeda members be legitimately deprived of Geneva Convention guarantees (once the required hearing was held) but such treatment was in many cases necessary to obtain vital intelligence and prevent terrorists from communicating with confederates abroad. But if the United States was to resort to that exceptional practice, Mr. Rumsfeld should have established procedures to ensure that it did so without violating international conventions against torture and that only suspects who truly needed such extraordinary handling were treated that way. Outside controls or independent review could have provided such safeguards. Instead, Mr. Rumsfeld allowed detainees to be indiscriminately designated as beyond the law--and made humane treatment dependent on the goodwill of U.S. personnel.

Much of what has happened at the U.S. detention center in Guantanamo Bay is shrouded in secrecy. But according to an official Army report, a system was established at the camp under which military guards were expected to “set the conditions” for intelligence investigations. The report by Maj. Gen. Antonio M. Taguba says the system was later introduced at military facilities at Bagram airbase in Afghanistan and the Abu Ghraib prison in Iraq, even though it violates Army regulations forbidding guards to participate in interrogations.

The Taguba report and others by human right groups reveal that the detention system Mr. Rumsfeld oversees has become so grossly distorted that military police have abused or tortured prisoners under the direction of civilian contractors and intelligence officers outside the military chain of command--not in “exceptional” cases, as Mr. Rumsfeld said Tuesday, but systematically. Army guards have held “ghost” prisoners detained by the CIA and even hidden these prisoners from the International Red Cross. Meanwhile, Mr. Rumsfeld's contempt for the Geneva Conventions has trickled down: The Taguba report says that guards at Abu Ghraib had not been instructed on them and that no copies were posted in the facility.

The abuses that have done so much harm to the U.S. mission in Iraq might have been prevented had Mr. Rumsfeld been responsive to earlier reports of violations. Instead, the publicly dismissed or minimized such accounts. He and his staff ignored detained reports by respected human rights groups about criminal activity at U.S.-run prisons in Afghanistan, and they refused to provide access to facilities or respond to most questions. In December 2002, two Afghan detainees died in events that were ruled homicides by medical officials; only when the New York Times obtained the story did the Pentagon confirm that an investigation was underway, and no results have yet been announced. Not until other media obtained the photos from Abu Ghraib did Mr. Rumsfeld fully acknowledge what had happened, and not until Tuesday did his department disclose that 25 prisoners have died in U.S. custody in Iraq and Afghanistan. Accountability for those deaths has been virtually nonexistent: One soldier was punished with a dishonorable discharge.

On Monday Mr. Rumsfeld's spokesman said that the secretary had not read Mr. Taguba's report, which was completed in early March. Yesterday Mr. Rumsfeld told a television interviewer that he still hadn't finished reading it, and he repeated his view that the Geneva Conventions "did not precisely apply" but were only "basic rules" for handling prisoners. His message remains the same: that the United States need not be bound by international law and that the crimes Mr. Taguba reported are not, for him, a priority. That attitude has undermined the American military's observance of basic human rights and damaged this country's ability to prevail in the war on terrorism.

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Mr. Speaker, I would just make this observation. The Congress has only two real abilities to effect events. The first is to use the power of the purse, and preliminary to doing that, to ask the right questions about what the intent of our government is before we get into something like Iraq. The Congress, unfortunately, settled for spongy answers beforehand.

But the second power that Congress has is the power of investigation. At least after the fact, this Congress ought to investigate from top to bottom what contributed to this outrageous chain of events that has been such a disgrace to our ability to stand up for basic American values. At least if we do that, we can try to ensure that something like this never happens again in the name of the United States of America.

